IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WA.No. 26 of 2007

AGAINST THE JUDGEMENT IN OP.NO.61/2001 Dated 23/02/2006

APPELLANT: PETITIONER:

A.C. NABEESA,
MANAGER, A.U.P.SCHOOL,
KADAKKAL P.O., PARAPPANANGADI.

BY ADV. SRI.T.M.ABDUL LATHIFF

RESPONDENTS:RESPONDENTS:
---

1. THE STATE OF KERALA,
   REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
   THIRUVANANTHAPURAM.

3. THE DISTRICT EDUCATIONAL OFFICER, TIRUR.

4. THE ASSISTANT EDUCATIONAL OFFICER,
   PARAPPANANGADI.

BY SPECIAL GOVERNMENT PLEADER SRI.C.T.RAVIKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05/10/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 26 OF 2007 C

Dated this the 5th October, 2007

JUDGMENT

H.L.DATTU, C.J.

Appellant/petitioner is the Manager of an aided institution. In the Original Petition filed, she had called in question the orders passed by the State Government (Ext.P3), directing the petitioner to pay an amount of Rs.2,62,945/-, being the subsistence allowance and salary paid to the Headmaster of the school, wherein petitioner is working as the Manager. The reason for such a direction was that the petitioner had kept the Headmaster of the School out of service in spite of the various orders passed by the Educational Authorities and also the State Government.

2. The learned single Judge, after tracing the history of the entire case in detail, has come to the conclusion that it is at the instance of the petitioner that the Headmaster of the School was kept out of service in spite of the orders passed by the authorities under the provisions of the Kerala Education Act and Rules, and therefore, the petitioner is liable to pay the amount of subsistence allowance and salary paid to the Headmaster during the period he was illegally kept out of service. Aggrieved by the order of the learned single Judge, the petitioner is before us in this appeal.

3. The facts in nut shell are: Appellant/petitioner is working as the Manager of an aided institution. She had kept the Headmaster of the School under suspension for various reasons. Thereafter had intimated the same to the Assistant Educational Officer. The Assistant Educational Officer, after conducting an enquiry, had thought it fit to direct the petitioner to reinstate the Headmaster of

the School into service. The order so passed by the Assistant Educational Officer was the subject matter of appeal, revision and Original Petition before this Court. In all those proceedings, the petitioner did not succeed. In spite of it, out of sheer vengeance against the Headmaster of the School, she had kept him out of service. It was, in our opinion, nothing but showing total disrespect and disregard to the orders passed by the higher authorities and also an order passed by this Court.

4. The State Government, in exercise of its powers under Rule 7 of Chapter III and Rule 67(8) of Chapter XIV-A of the Kerala Education Rules, has issued Ext.P3 order and the consequential notice (Ext.P9) inter alia directing the petitioner to pay an amount of Rs. 2,62,945/- being the subsistence allowance and salary paid to the Headmaster of the school who was illegally kept out of service by the petitioner as manager of the school.

5. Rule 7 of Chapter III and Rule 67(8) of Chapter XIV-A of Kerala Education Rules are as under:

> "**7. Action against Manager or Educational Agency in the event of mismanagement etc.**-- (1) In the event of mismanagement, malpractice, corruption or maladministration, gross negligence of duty, or disobedience of Departmental instruction on the part of the Manager or denial of appointment to a qualified thrown out teacher who has a rightful claim for reappointment by virtue of his/her holding the post earlier or denial of promotion to a teacher who is rightful claimant for promotion by the Manager or conviction of the Manager for an offence involving moral turpitude, it shall be open to the Director, after giving the Manager a reasonable opportunity to show cause against the action proposed to be taken and after due enquiry, to declare him unfit to hold the office of Manager in the school or in any other aided school and to require the Educational Agency to appoint a suitable person as Manager.

> **67(8)**. Where the orders of suspension is made by the manager he shall on the same day report the matter together with reasons for the suspension to the Educational Officer and where the suspension is in respect of Headmaster of Secondary School and Training School such reports shall be sent to the Deputy Director (Education) also in addition to the Educational Officer. The Deputy Director (Education), if the suspensions in respect of Headmaster of a Secondary School or Training School and the Education Officer in other cases, shall thereupon make a preliminary investigation into the grounds of suspension. If on such investigations the authority is satisfied that there was no valid ground for the suspension he may direct the manager to reinstate the teacher with effect from the date of suspension, and thereupon the teacher shall forthwith be reinstated by the manager. If the teacher is not actually reinstated the teacher shall be deemed to have been on duty. It shall then be open to the Department to disburse the pay and allowances to the teacher as if he were not suspended and recover the amount so disbursed from the manager. If on such investigation it is found that there are valid grounds for such suspension, permission may be given to the manager to place the teacher under suspension beyond 15 days, if necessary. The authority mentioned above shall pass orders permitting the suspension or otherwise within the said 15 days."

6. Having perused the aforesaid Rules and also taking note of the conduct of the petitioner, we are of the opinion that the learned single Judge was fully justified in rejecting the Original Petition and thereby sustaining the orders and demand notice issued by the State Government. In that view of the matter, we are not inclined to entertain this appeal. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/dk